

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2090**

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**Introduced by Assembly Member Fong**

February 20, 2014

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An act to amend Section 149.6 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2090, as amended, Fong. High-occupancy toll lanes: Santa Clara County.

Existing law authorizes the Santa Clara Valley Transportation Authority (VTA) to conduct, administer, and operate high-occupancy toll (HOT) lanes, under which single-occupancy vehicles may use high-occupancy vehicle lanes by paying a toll, on 2 state highway corridors within the county. Existing law requires that implementation of the HOT lanes ensure that specified levels of service, described as Level of Service C or D, as specified, be maintained at all times in the high-occupancy lanes and that unrestricted access to the lanes by high-occupancy vehicles be available at all times.

This bill would delete the reference to Level of Service C or D, and instead would require VTA to establish, with the assistance of the Department of Transportation, appropriate performance measures, such as speed or travel times, for the purpose of ensuring optimal use of the HOT lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system. The bill would provide ~~for that high-occupancy vehicles to have access to the lanes at all times rather than unrestricted access as under existing law~~ *may be required*

*to have an electronic transponder or other electronic device for enforcement purposes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 149.6 of the Streets and Highways Code  
2 is amended to read:

3 149.6. (a) Notwithstanding Sections 149 and 30800, and  
4 Section 21655.5 of the Vehicle Code, the Santa Clara Valley  
5 Transportation Authority (VTA) created by Part 12 (commencing  
6 with Section 100000) of Division 10 of the Public Utilities Code  
7 may conduct, administer, and operate a value pricing program on  
8 any two of the transportation corridors included in the  
9 high-occupancy vehicle lane system in Santa Clara County in  
10 coordination with the Metropolitan Transportation Commission  
11 and consistent with Section 21655.6 of the Vehicle Code. A  
12 high-occupancy toll (HOT) lane established on State Highway  
13 Route 101 pursuant to this section may extend into San Mateo  
14 County as far as the high-occupancy vehicle lane in that county  
15 existed as of January 1, 2011, subject to agreement of the  
16 City/County Association of Governments of San Mateo County.

17 (1) VTA, under the circumstances described in subdivision (b),  
18 may direct and authorize the entry and use of those high-occupancy  
19 vehicle lanes by single-occupant vehicles for a fee. The fee  
20 structure shall be established from time to time by the authority.  
21 A high-occupancy vehicle lane may only be operated as a HOT  
22 lane during the hours that the lane is otherwise restricted to use by  
23 high-occupancy vehicles.

24 (2) VTA shall enter into a cooperative agreement with the Bay  
25 Area Toll Authority to operate and manage the electronic toll  
26 collection system.

27 (b) With the assistance of the department, VTA shall establish  
28 appropriate performance measures, such as speed or travel times,  
29 for the purpose of ensuring optimal use of the HOT lanes by  
30 high-occupancy vehicles without adversely affecting other traffic  
31 on the state highway system. ~~Access~~ *Unrestricted access* to the  
32 lanes by high-occupancy vehicles shall be available at all times,  
33 *except that high-occupancy vehicles may be required to have an*

1 *electronic transponder or other electronic device for enforcement*  
2 *purposes.* At least annually, the department shall audit the ~~level~~  
3 ~~of service performance~~ during peak traffic hours and report the  
4 results of that audit at meetings of the program management team.

5 (c) Single-occupant vehicles that are certified or authorized by  
6 the authority for entry into, and use of, the high-occupancy vehicle  
7 lanes in Santa Clara County, and, if applicable, San Mateo County  
8 as provided in subdivision (a), are exempt from Section 21655.5  
9 of the Vehicle Code, and the driver shall not be in violation of the  
10 Vehicle Code because of that entry and use.

11 (d) VTA shall carry out the program in cooperation with the  
12 department pursuant to an agreement that addresses all matters  
13 related to design, construction, maintenance, and operation of state  
14 highway system facilities in connection with the value pricing  
15 program.

16 (e) (1) Agreements between VTA, the department, and the  
17 Department of the California Highway Patrol shall identify the  
18 respective obligations and liabilities of those entities and assign  
19 them responsibilities relating to the program. The agreements  
20 entered into pursuant to this section shall be consistent with  
21 agreements between the department and the United States  
22 Department of Transportation relating to this program. The  
23 agreements shall include clear and concise procedures for  
24 enforcement by the Department of the California Highway Patrol  
25 of laws prohibiting the unauthorized use of the high-occupancy  
26 vehicle lanes, which may include the use of video enforcement.  
27 The agreements shall provide for reimbursement of state agencies,  
28 from revenues generated by the program, federal funds specifically  
29 allocated to the authority for the program by the federal  
30 government, or other funding sources that are not otherwise  
31 available to state agencies for transportation-related projects, for  
32 costs incurred in connection with the implementation or operation  
33 of the program.

34 (2) The revenues generated by the program shall be available  
35 to VTA for the direct expenses related to the operation (including  
36 collection and enforcement), maintenance, construction, and  
37 administration of the program. The VTA's administrative costs in  
38 the operation of the program shall not exceed 3 percent of the  
39 revenues.

(3) All remaining revenue generated by the program shall be used in the corridor from which the revenues were generated exclusively for the preconstruction, construction, and other related costs of high-occupancy vehicle facilities and the improvement of transit service, including, but not limited to, support for transit operations pursuant to an expenditure plan adopted by the VTA.

To the extent a corridor extends into San Mateo County pursuant to subdivision (a), VTA and the City/County Association of Governments of San Mateo County shall, by agreement, determine how remaining revenue shall be shared for expenditure in Santa Clara County and San Mateo County consistent with this paragraph.

(f) (1) The VTA may issue bonds, refunding bonds, or bond anticipation notes, at any time to finance construction and construction-related expenditures necessary to implement the value pricing program established pursuant to subdivision (a) and construction and construction-related expenditures that are provided for in the expenditure plan adopted pursuant to paragraph (3) of subdivision (e), payable from the revenues generated from the program.

(2) The maximum bonded indebtedness that may be outstanding at any one time shall not exceed an amount that may be serviced from the estimated revenues generated from the program.

(3) The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by the authority.

(4) Any bond issued pursuant to this subdivision shall contain on its face a statement to the following effect:

“Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of principal of, or the interest on, this bond.”

(5) Bonds shall be issued pursuant to a resolution of VTA adopted by a two-thirds vote of its governing board. The resolution shall state all of the following:

(A) The purposes for which the proposed debt is to be incurred.

(B) The estimated cost of accomplishing those purposes.

(C) The amount of the principal of the indebtedness.

(D) The maximum term of the bonds and the interest rate.

(E) The denomination or denominations of the bonds, which shall not be less than five thousand dollars (\$5,000).

1 (F) The form of the bonds, including, without limitation,  
2 registered bonds and coupon bonds, to the extent permitted by  
3 federal law, the registration, conversion, and exchange privileges,  
4 if applicable, and the time when all of, or any part of, the principal  
5 becomes due and payable.

6 (G) Any other matters authorized by law.

7 (6) The full amount of bonds may be divided into two or more  
8 series and different dates of payment fixed for the bonds of each  
9 series. A bond shall not be required to mature on its anniversary  
10 date.

11 (g) Not later than three years after VTA first collects revenues  
12 from any of the projects described in paragraph (1) of subdivision  
13 (a), VTA shall submit a report to the Legislature on its findings,  
14 conclusions, and recommendations concerning the demonstration  
15 program authorized by this section. The report shall include an  
16 analysis of the effect of the HOT lanes on adjacent mixed-flow  
17 lanes and any comments submitted by the department and the  
18 Department of the California Highway Patrol regarding operation  
19 of the lanes.